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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.              | CONFIRMATION NO. |
|--|-------------|----------------------|----------------------------------|------------------|
| 10/629,685   | 07/30/2003  | Andrew F. Knight     |                                  | 6541             |
| 42067  | 7590        | 03/17/2005           |                                  |                  |
| ANDREW F. KNIGHT<br>6330 COLUMBIA PIKE<br>FALLS CHURCH, VA 22041 |             |                      | EXAMINER<br>RODRIGUEZ, WILLIAM H |                  |
|  |             |                      | ART UNIT<br>3746                 | PAPER NUMBER     |

DATE MAILED: 03/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/629,685

**Applicant(s)**

KNIGHT, ANDREW F.

**Examiner**

William H. Rodriguez

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12/30/04 (supplementary amendment).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4,6-11,13,17,21 and 25-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,4,6-11,13,17 and 21 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 25-33 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/30/03; 5/17/04.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. This application contains claims directed to the following patentably distinct species of the claimed invention: the specie of **Figures 2, 3** in the instant application; the specie of **Figures 4a-4d, 17a and 17 b** in the instant application; and **Figure 3** of US 6,499,288 (parent case).

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1 and 21 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

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2. During a telephone conversation with Mr. Andrew F. Knight on 3/14/05 a provisional election was made with traverse to prosecute the invention of the specie of **Figures 4a-4d, 17a** and **17 b** in the instant application, claims 1, 4, 6-11, 13, 17, 21, and 25-35\* (according to applicant). Affirmation of this election must be made by applicant in replying to this Office action. Claims 34-40 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

*\* According to a correspondence (supplementary amendment) filed by applicant on 12/30/04, claim 34 corresponds to an embodiment of Figure 3 of the US patent 6,499,288 (see page 13 of the remarks of amendment filed on 12/30/04). Therefore, as clearly stated by applicant, claim 34 corresponds to a non-elected specie and thus independent claim 34 and its dependent claims are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.*

*The claims to be examined are: 1, 4, 6-11, 13, 17, 21, and 25-33*

### ***Drawings***

3. The drawings are objected to because of the following reason:

*Figure 16a and 16b show a storage tank 38 comprising: a piston 200, a pressurant exit valve 202 and a pressurant entrance valve 210. On the other hand, figures 17a and 17 b show a storage tank 38 comprising a piston 54, a propellant entrance valve 218, and a propellant exit valve 220. However, the specification fails to provide a figure (regarding the elected specie --a storage tank comprising a piston), where the connection and relation between the propellant and pressurant valves is shown. Examiner suggests adding a figure that shows a storage tank 38*

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*comprising a piston, and the connection between the propellant valves and pressurant valves as claimed in claim 25.*

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Information Disclosure Statement***

4. The CD filed as part of the information disclosure statement filed on 5/17/04 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because CD's are not listed as being an appropriate form of submitting an IDS. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission

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for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

***Specification***

5. The specification is objected to because the first 2 lines of the specification need to be updated to show the US patent number of US application 10/214,706. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 25-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 25 recites the limitation “wherein said valves are connected....” in line 12. It is unclear whether the recitation “said valves” refers back to “the at least two pressurant entrance valves” or to “the at least two pressurant exit valves” or to “the at least two propellant entrance valves” or to “the at least two propellant exit valves”. Appropriate correction is required (i.e., wherein said at least two pressurant entrance valves are connected, etc).

Claim 25 recites the limitation “wherein said valves are connected....” in line 15. It is unclear whether the recitation “said valves” refers back to “the at least two pressurant entrance valves” or to “the at least two pressurant exit valves” or to “the at least two propellant entrance

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valves” or to “the at least two propellant exit valves”. Appropriate correction is required (i.e., wherein said at least two pressurant entrance valves are connected, etc).

Claim 26 recites the limitation “at one of said valves is located....” in line 4. It is unclear whether the recitation “said valves” refers back to “the at least two pressurant entrance valves” or to “the at least two pressurant exit valves” or to “the at least two propellant entrance valves” or to “the at least two propellant exit valves”. Appropriate correction is required (i.e., at least one of said pressurant entrance valves is located, etc).

#### ***Allowable Subject Matter***

8. Claims 1, 4, 6-11, 13, 17, and 21 are allowed.
9. Claims 25-33 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

#### ***Contact information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Rodriguez whose telephone number is 571-272-4831. The examiner can normally be reached on Monday-Friday 7:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl J Tyler can be reached on 571-272-4834. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



William H. Rodriguez

Examiner

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